

A defendant has thirty days from service of the initial pleading to remove a case from state

court to federal court. 28 U.S.C. § 1446(b). Although Defendant states all occupants were served on July 28, 2010, attachments to the notice of removal show the court issued an eviction citation for the Defendant that was executed on June 28, 2010 and included the original petition. App. in Supp. Notice of Removal 28, ECF No. 2. Defendant filed notice of removal on August 11, 2010, two weeks past the deadline. *See* ECF No. 1. Additionally, all defendants must consent for removal to federal court. *See Getty Oil Corp. v. Ins. Co. Of N. Am.*, 841 F.2d 1254, 1262-63 (5th Cir. 1988). Defendant fails to respond to Magistrate Judge Ramirez's finding that Marcus Sawyer did not consent to the removal filed by unnamed Defendant Talance Sawyer.

After conducting a review of the pleadings, files and records in this case, the Findings, Conclusions, and Recommendation of the United States Magistrate Judge (ECF No. 9), and objections of the Defendant (ECF No. 10), this Court is of the opinion that the Findings and Recommendation of the Magistrate Judge are correct, and they are hereby accepted as the Findings of the Court. Accordingly, Plaintiff's Motion to Remand (ECF No. 5) is **GRANTED** and this case is remanded to Dallas County Court at Law No. 5.

SO ORDERED on this **1st** day of **November, 2010**.


Reed O'Connor
UNITED STATES DISTRICT JUDGE